

The Flinn Report

Illinois

Regulation

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Joint Committee on Administrative Rules

Illinois General Assembly

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Issue 32

Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation is designed to inform and involve the public in changes taking place in agency administration.

New Regulations

PROCUREMENT CODE

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments to "Standard Procurement" (44 Ill Adm Code 1), effective 7/25/06, that allow CMS, as the Chief Procurement Officer, to enter into information technology contracts with multiple vendors under a process that provides for prequalification, agreement to perform at a set rate, and final selection based on random or rotating distribution of work among qualified vendors. However, in "exceptional circumstances", the procuring agency may substitute other specified vendor selection processes for the random vendor selection process. Other covered topics include small business set-asides; temporary removal of a vendor from eligibility to avoid a "disproportionate distribution of work"; and the process by which a vendor is offered a non-exclusive, indefinite-quantity master contract against which a procuring agency may later place one or more orders on an as-needed basis. Changes since 1st Notice include requiring CMS to enter into contracts with multiple vendors; revising the method of obtaining and setting rates; restricting multi-vendor contracts to information technology; selecting master contract holders on

a random basis; authorizing an alternate selection process when random vendor selection does not meet the agency's needs; requiring justification in the procurement file for the selection of master contract vendors and how each selection meets the particular need; and listing the specific elements that must be documented and included in a contract solicitation file. Those affected by these rulemakings include small businesses and not-for-profit corporations seeking contracts to provide goods or services to State or municipal governments.

Questions/requests for copies: Gina Wilson, CMS, 720 Stratton Building, Springfield IL 62706, 217/785-1793.

CHILD SUPPORT

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted an amendment to "Child Support Enforcement" (89 Ill Adm Code 160), effective 7/28/06, to define the child support withholding date from an employee's pay as the date of collection when an employer withholds support in the month it is due, but the money is not received by the HFS special disbursement unit until the next month. A new Section authorizes and details the

(cont'd next page)

Proposed Regulations

REHABILITATION SERVICES

DEPARTMENT OF HUMAN SERVICES proposed amendments to its rules titled "Comparable Benefits" (89 Ill Adm Code 567) to require Rehabilitation Services customers requesting medical services or physical restoration services (e.g., physical therapy) to apply for Medicaid benefits and complete an eligibility determination. The rulemaking also clarifies that unrestricted scholarships and awards based solely on merit are not considered comparable benefits and therefore do not impact the customer's need for DHS-DRS services.

Questions/requests for copies/comments until 9/25/06: Tracie Drew, DHS, 100 S. Grand Ave. E., 3rd Fl., Springfield IL 62762, 217/785-9772.


MEDICAL ASSISTANCE

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to "Specialized Health Care Delivery Systems" (89 Ill Adm Code 146) recognizing dentists providing surgical services in an Ambulatory Surgical Treatment Center (ASTC) as qualified providers. The dental services must be provided by a dentist working for the ASTC and the ASTC must bill for the services. Related amendments are being proposed to "Hospital Services" (89 Ill Adm Code 148) to cover surgical dental procedures of very low intensity meeting the

(cont'd page 4)

NEW REGULATIONS: Rules adopted by agencies this week.

PROPOSED REGULATIONS: Rules proposed by agencies this week, commencing a 45-day First Notice period. Public comments must be accepted by the agency for the period of time indicated.

: Symbol designating rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.

QUESTIONS/COMMENTS/RULE TEXT: Direct mail or phone calls to the agency personnel listed below each summary. Providing volume and issue number of The Flinn Report or the Illinois Register will expedite the process. Some agencies charge copying fees. However, copy requests do not have to be made under the Freedom of Information Act.

New Regulations

collection of interest on unpaid monthly child support balances.

Questions/requests for copies: Tamara Tanzillo Hoffman, HFS, 201 S. Grand Ave. E., 3rd Fl., Springfield IL 62763-0002, 217/557-7157.

STATE EMPLOYEES HIRING AND PROMOTION

The DEPARTMENT OF HUMAN RIGHTS adopted an amendment to "Procedures of the Department of Human Rights" (56 Ill Adm Code 2520), effective 7/31/06, to require that State employee hiring and promotion "monitors" (forms) be submitted to the Department of Central Management Services. The monitors apply to hires and promotions of full- and part-time permanent employees, including trainees, provisional employees, and semi-automatic promotions due to collective bargaining agreements. In the event that an agency equal employment opportunity (EEO) officer does not concur with the hire/promotion, the reason for the nonconcurrence must be attached. EEO officers and agency chief executive officers (CEO) must sign the monitor prior to the effective date of the hire or promotion, with the CEO's signature indicating approval.

Questions/requests for copies: Brent A. Harzman, DHR - Legal Division, 100 W. Randolph St., Ste. 10-100, Chicago IL 60601, 312/814-1906, TTY: 312/263-1579.

LOCAL HEALTH DEPARTMENT GRANTS

The DEPARTMENT OF PUBLIC HEALTH amended "Local Health Protection Grant Rules" (77 Ill Adm Code 615), effective 7/27/06, to add the Northern Illinois Public Health Consortium as one of 2 organizations with which the DPH Director consults before choosing the methodology used to award Local Health Protection Grants and before making other decisions affecting the program. (Current rules provide for consultation with the

Illinois Assn. of Public Health Administrators.) Those affected by this rulemaking include local health departments seeking grants for programs or services affecting infectious disease, food protection, potable water supply, private sewage disposal, etc.

Questions/requests for copies: Susan Meister, DPH - Division of Legal Services, 535 W. Jefferson, 5th Floor, Springfield IL 62761, 217/782-2043, Fax: 217/557-8617, e-mail: rules@idph.state.il.us.

MANUFACTURED HOUSING

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to "Manufactured Home Community Code" (77 Ill Adm Code 860) and "Illinois Modular Dwellings and Mobile Structures Code" (77 Ill Adm Code 880), adopted a new Part titled "Manufactured Home Installation Code" (77 Ill Adm Code 870), and repealed rules titled "Illinois Manufactured Home Tiedown Code" (77 Ill Adm Code 870) and "Manufactured Home Installer Course Accreditation Code" (77 Ill Adm Code 885), effective 7/28/06. The provisions of the 2 repealed Parts are incorporated into the new Part 870. Parts 860, 870 and 880 update relevant incorporations by reference to the latest available standards. In addition, Part 860 amendments revise prior manufactured home community layout requirements to address the homes' proximity to private streets and each other; require footing support systems for all homes installed in the future; and provide guidelines, including minimum water main size and water pressure, for fire hydrants located within such a community. Part 880 changes the name of the Part from "Manufactured Housing and Mobile Structures" to "Illinois Modular Dwellings and Mobile Structures Code" to reflect that the federal government regulates construction of single-family "manufactured housing" and prohibits states or political subdivisions from enforcing more stringent standards. Commercial modular structure construction is not covered by DPH;

however, local jurisdictions may regulate such construction. Part 880 amendments require all modular dwellings and mobile structures located in Illinois to be inspected at the factory by an approved inspection agency. The amendments establish procedures for inspection agencies to gain Department approval and explain annual evaluations, inspection agency responsibilities, fee structure (\$500/initial application and \$300/yr. renewal), seal and code placement, and time frames for various reports. Grounds and procedures for suspension or revocation of inspection agency approval, as well as procedures for correcting violations and closing manufacturing operations, are also provided. Proposed new Part 870 implements Public Act 92-410 (the Manufactured Home Quality Assurance Act) by licensing manufactured home producers, importers, and installers. Covered topics include manufactured home installer course accreditation and curriculum; installer licensure and continuing education standards and procedures; and submission of the required installation compliance certificate to DPH. Manufactured homes must be installed according to the manufacturer's instructions or, if not available, according to the standards of this new Part. Anchoring requirements are also detailed. Manufacturers are responsible for providing a copy of their installation requirements with each home and to DPH upon request, including home warranty information. The Department can revoke a license for up to 6 months for violations. Changes to Part 880 since 1st Notice add a design parameter for use in the International Energy Conservation Code for modular dwellings, setting a maximum riser height of 8¼" and a minimum tread depth of 9". Definitions of "licensed architect" and "professional engineer" are added, as are statements regarding where incorporated statutes and regulations may be viewed. Manufactured home community licensees and installers, modular dwelling manufacturers, commercial mobile structure manufacturers, and related inspection agencies

New Regulations

are affected by these rulemakings.

Questions/requests for copies: Susan Meister, DPH - Division of Legal Services, 535 W. Jefferson, 5th Floor, Springfield IL 62761, 217/782-2043, Fax: 217/557-8617, e-mail: rules@idph.state.il.us.

PREDATORY LENDING DATABASE

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted emergency amendments to "Predatory Lending Database" (38 Ill Adm Code 346), effective 7/28/06, for a maximum of 150 days, announcing a pilot program inception date of 9/1/06. An identical proposed rulemaking appears in this issue of the *Illinois Register*. The Part prescribes reporting and compliance requirements for real estate, title and mortgage finance professionals in selected areas in Cook County. The designated areas can be obtained from the Department. Those affected by this rulemaking are HUD-certified counselors and DFPR residential mortgage and title insurance licensees.

Questions/requests for copies and comments until 9/25/06: Barb Smith, Department of Financial and Professional Regulation, 320 West Washington St., 3rd Floor, Springfield IL 62786, 217/785-0813, Fax: 217/557-4451.

PERSONAL PROPERTY IN MENTAL HEALTH FACILITIES

The DEPARTMENT OF HUMAN SERVICES adopted an emergency amendment to "Recipient's Property" (59 Ill Adm Code 110), effective 7/31/06, for a maximum of 150 days, that restricts the types of personal property individuals may bring into a State mental health facility. An identical proposed rulemaking appears in this issue of the *Illinois Register*. The rulemaking outlines procedures for notifying individuals of the classes of restricted personal property and for staff to inventory restricted/contraband items. An individual's treatment staff must approve the personal property an

individual will possess while in the facility. The rulemaking specifies how approved personal property can be used and stored. If an individual disagrees with the treatment team's decision, the decision may be appealed to a non-team clinician. Rules governing possession and use of personal funds (money), personal media (newspapers, magazines, books, etc.), audio media (records, cassettes, CDs, etc.), visual media (videotapes, video games, DVDs, etc.) and media storage devices (MP3 players, Ipods, etc.) are established. The rulemaking details what is considered contraband and clarifies that restrictions on an individual's right to possess personal property is not imposed as punishment. As an individual's clinical situation changes, the treatment team will reconsider the possession of personal property.

Questions/requests for copies/comments until 9/25/06: Tracie Drew, DHS, 100 S. Grand Ave. E., 3rd Fl., Springfield IL 62762, 217/785-9772.

FIREWOOD ON DNR SITES

DEPARTMENT OF NATURAL RESOURCES adopted an emergency amendment to "Public Use of State Parks and Other Properties of the Department of Natural Resources" (17 Ill Adm Code 110), effective 7/25/06, for a maximum of 150 days, to prohibit transportation or possession of firewood on DNR land from any geographical area that has a State or federal quarantine in place. An identical proposed rulemaking appears in this issue of the *Illinois Register*. The rulemaking also prohibits the sale or distribution of firewood on DNR land without a prior written agreement. DNR may confiscate any firewood that is in violation of this Part. Those affected include concessionaires, farm lessees, and those involved in the sale or demolition of DNR buildings and facilities.

Questions/requests for copies: Jack Price, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

REGISTRATION OF VIOLENT OFFENDERS AGAINST YOUTH

The DEPARTMENT OF STATE POLICE adopted emergency rules titled "Child Murderer and Violent Offender Against Youth Registration Act" (20 Ill Adm Code 1283), effective 8/1/06, for a maximum of 150 days. The new Part implements PA 94-945 and requires violent offenders against youth, violent offenders against youth who are discharged, paroled or released from a DOC facility, other penal institution or a hospital or treatment facility, and violent offenders against youth who are released on probation or discharged upon payment of a fine to register with the municipal chief of police or county sheriff under the Sex Offender Registration Act until PA 94-945 can be implemented. Those offenders discharged, paroled or released must register prior to their discharge, parole or release.

Questions/requests for copies: Keith Jensen, ISP, 124 E. Adams St., Room 102, P.O. Box 19461, Springfield IL 62794-9461, 217/782-7658.

STATE EMPLOYEE SALARIES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments to "Pay Plan" (80 Ill Adm Code 310) by peremptory rulemaking, effective 8/1/06, to reflect a 5/3/06 memorandum of understanding (MOU) between the State and the American Federation of State, County and Municipal Employees. The Civil Service Commission approved the creation of the Workers Compensation Insurance Compliance Investigator class on 7/20/06. The MOU assigns the class title to bargaining unit RC-062 and pay grade 20. The Workers Compensation Commission is affected by this peremptory rule.

Questions/requests for copies: Jason Doggett, CMS, 504 Stratton Bldg., Springfield IL 62706, 217/782-7964, Fax: 217/524-4570.

Proposed Regulations

following criteria: patient requires general anesthesia or conscious sedation, has a medical condition that places the patient at increased risk (e.g., cardiopulmonary disease, congenital anomalies, history of complications to anesthesia), or cannot be safely managed in an outpatient setting because of behavioral, developmental or mental disorders. The amendment also allows hospitals to bill fee for service for physicians' services for chemotherapy provided in conjunction with radiation therapy services. Entities affected by the rulemakings are ASTCs and hospitals.

Questions/requests for copies/comments regarding both proposed rulemakings by 9/25/06: Tamara Tanzillo Hoffman, HFS, 201 S. Grand Ave. E., 3rd Fl., Springfield IL 62763-0002, 217/557-7157.

SOUND EMISSIONS

POLLUTION CONTROL BOARD proposed a site-specific amendment to "Sound Emission Standards and Limitations for Property Line-Noise-Sources" (35 Ill Adm Code 901) to allow the Vaughan & Bushnell Manufacturing Co. to extend the operating hours of its forging facility located in Bushnell (McDonough County) from 6:00 a.m.-1:30 a.m. Monday-Saturday to 24 hours/day, 7 days/week.

Requests for copies/comments until 9/25/06: Dorothy Gunn, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL 60601, 312/814-3620. Questions: John Knittle, PCB, 2125 S. First St., Champaign IL 61820 217/278-3111. Please reference Docket R06-11.

PRESCHOOL PROGRAM

The STATE BOARD OF EDUCATION proposed amendments for "Early Childhood Grant Block Grant" (23 Ill Adm Code 235) implementing PA 94-1054, which created the Preschool for All Children

program. SBE adopted emergency rules implementing the PA effective 6/26/06 so that it can provide funding for qualifying programs before the start of the 2006-07 school year. Statutory priority for grants is: (1) applicants serving children who have been identified as being at risk of academic failure and (2) applicants serving children whose family income is less than 4 times the federal poverty level. Topics covered include eligible applicants, application procedures, SBE review criteria, and terms of the grant. Also, each program must have a parent education and involvement component. Those affected by this rulemaking include private-for-profit and not-for-profit entities that apply for grants under this new program.

Requests for copies/comments until 9/25/06: Sally Vogl, SBE, 100 N. First St., S-493, Springfield IL 62777-0001, 217/782-5270, e-mail: rules@isbe.net

SCHOLASTIC GRANTS

The ILLINOIS STUDENT ASSISTANCE COMMISSION is proposing 3 new Parts. The first, "Monetary Award Program Plus" (23 Ill Adm Code 2734), implements PA 94-1056 providing grant assistance to students who do not receive a MAP grant and whose families' gross incomes are under \$200,000. Qualified applicants must be citizens, Illinois residents and enrolled at least half-time at the sophomore to senior level at an Illinois MAP eligible institution and must maintain satisfactory academic progress. The grant may only be used towards tuition and mandatory fees. The maximum MAP Plus grant is \$500. The second rulemaking, "Forensic Science Grant Program" (23 Ill Adm Code 2742), implements provisions of PA 94-1020 encouraging graduate students to enter the field of forensic science and resulting careers with the Illinois State Police (ISP). Qualified applicants must be citizens, Illinois residents and en-

rolled full-time at an Illinois institution and must comply with ISP evaluation criteria. Selection will be based on GPA. Award amounts are limited to \$30,000 in any academic year. The third rulemaking, "Nurse Educator Scholarship Program" (23 Ill Adm Code 2766), also implements provisions of PA 94-1020 and requires recipients to be enrolled or accepted on at least a half time basis in a program of professional or practical nursing education at the graduate level at an Illinois institution. Selection will be based on a combination of GPA and expected family contribution. Award amounts are limited to the actual amount of tuition and fees plus a \$10,000 living stipend. Parts 2742 and 2766 also give prior recipients priority consideration, include renewal and selection criteria and require recipients to sign a promissory agreement to work as a forensic scientist under ISP guidelines for at least 4 years or as a nursing educator for at least 5 years. If the recipient does not meet his or her obligations under the agreement, the grant will convert to a loan and must be repaid within 10 years. Institutional procedures and program procedures are prescribed for each of the 3 rules.

Questions/requests for copies/comments until 9/25/06: Lynn Hynes, ISAC, 1755 Lake Cook Road, Deerfield IL 60015, 847/948-8500, ext. 3117, e-mail: lhynes@isac.org.

SCHOOL BUS SAFETY

The DEPARTMENT OF TRANSPORTATION proposed amendments to "Minimum Safety Standards for Construction of Type I School Buses" (92 Ill Adm Code 440) to require school buses manufactured on or after 1/1/06 to be equipped with a noise suppression switch. The switch must be able to turn off all noise producing accessories (e.g., heater blowers, defrost fans, auxiliary fans, radios, etc.). DOT is also incorporating

Proposed Regulations

the 2005 edition of the Federal Motor Vehicle Safety Regulations found in 49 CFR 571.1 through 571.404, federal standards governing certification of vehicles (49 CFR 567), federal regulations for vehicles manufactured in 2 or more

stages (49 CFR 568), and the 2005 edition of the *Society of Automotive Engineers Standards and Recommended Practices*. DOT is also updating, clarifying and correcting standards throughout the Part. This rulemaking will affect small busi-

nesses that manufacture Type I school buses.

Questions/requests for copies/comments until 9/25/06: Catherine Allen, DOT, P.O. Box 19212, Springfield IL 62794-9212, 217/785-3031.

Second Notices

No second notices were received by the Joint Committee on Administrative Rules during the period of August 1, 2006 through August 7, 2006.

JCAR 2005 ANNUAL REPORT

The Joint Committee on Administrative Rules' 2005 annual report is now available. The report summarizes agency rulemaking, JCAR actions, and public act reviews in addition to legislative and judicial actions that affected rulemaking.

Copies of the 2005 Annual Report of the Joint Committee on Administrative Rules are available to the public. The volume may be ordered for \$2.61 (\$4.20 with postage included) by sending a check to JCAR at the address listed on the front of this newsletter. It is also available online at our website at www.ilga.gov/commission/jcar

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